Letter Requesting the Analysis of the plan to reinstate the reconsideration level of Appeal

May 20, 2010

Dear Commissioner Astrue:

Thank you for your recent testimony at the Committee's joint hearing on the Social Security Administration's (SSA's) disability claims backlogs. As you know, at that hearing a number of Committee members raised concerns about the potential impact of the plan to reinstate the reconsideration level of appeal, which SSA has indicated would begin with Michigan and possibly expand to other prototype states. In addition, witnesses representing disability organizations and SSA Administrative Law Judges (ALJs) testified that they did not support the plan to reinstate the reconsideration stage.

We know you share our goal of ensuring that all citizens - those in Michigan and in other states receive the best possible service from SSA when they attempt the often arduous process of applying for disability benefits. Therefore, before the agency moves forward with such a significant change that would affect a large number of disability applicants, we believe it is essential that the potential effects of this plan be fully analyzed and the results of this analysis communicated to Congress, so that we can better assess the impact this plan would have on applicants.

Congress, SSA, and the stakeholder community have long had concerns about the shortcomings of the reconsideration level of appeal, since nationally fewer than 15 percent of applicants are allowed at this stage. Given these acknowledged shortcomings, the decision about reinstating reconsideration in any of the states must be made with great caution. It is important that we have a full understanding of the potential impact of this change on claimant waiting times, the trade-offs involved, and to what extent claimants may be harmed by this change, including the extent to which claimants who would have been awarded benefits at the hearing level fail to pursue an appeal to this level after being denied at reconsideration.

In addition, because funding reinstatement of the reconsideration stage will be costly, it is critical that a thorough analysis be conducted to assess whether alternative uses of this funding would be more beneficial for disability applicants and do more to reduce overall waiting times. This could include using the funds to improve the initial claims process, to make it more likely that the right decision is

made at this earlier stage; working down the initial claims backlog faster; or increasing hearing office resources.

Therefore, we request that the Committee be provided with the following information by June 10, 20 I 0, and before a final decision is made to move forward with reinstatement of reconsideration in Michigan or any other prototype state:

- I) All analyses SSA has conducted related to the plan to reinstate the reconsideration stage in Michigan or in other prototype states. These should include analyses referenced in your testimony at the April 27th hearing. You stated in your testimony, "We expected that eliminating the reconsideration step in the Prototype States would result in earlier decisions and reduced waiting times for claimants; however, we have found that the opposite is true." Please provide the analyses you conducted to support this finding. In addition, you stated that "In addition to Michigan, we are also looking at reinstating reconsideration in Colorado... " and that "In all cases, we thoroughly evaluate the potential reinstatements from a programmatic, budgetary, and legislative perspective." Please provide the Committee with these analyses as well.
- 2) A detailed analysis of the impact reinstating reconsideration would have on claimant waiting times in Michigan over the next several years. This should include an analysis of the impact on waiting times of alternative uses of the funds that would be used to reinstate reconsideration. (See below for more detail.)
- 3) A cost benefit analysis of the plan to reinstate reconsideration in Michigan in FY 2011.
- 4) You testified that cases that are processed through the reconsideration level are more thoroughly developed when they reach the hearings level than cases that have only been processed through the initial level. Please provide the results of any studies the agency has conducted that show that cases adjudicated at the reconsideration level can be processed more quickly at the hearings level, on average, than cases that were processed only through the initial claims level.

Finally, we know that you have had success with initiatives at the hearings level that screen cases to determine which ones are likely to be allowed on the record, without a hearing. Have you conducted any studies to determine to what extent the approximately 15 percent of cases likely to be allowed at the reconsideration level are cases that, if appealed directly to the hearings level, could be allowed without a hearing, through the Senior Attorney Program or similar initiatives?

If so, please provide the results of this analysis to the Committee by the date stated above. If not, we believe it would be helpful to conduct such an analysis before the decision is made to reinstate the reconsideration step, as this would allow a better assessment of the costs and benefits of such a decision.

Thank you for your assistance. We look forward to receiving these analyses, which will be very helpful in allowing the Committee to better assess the advantages and disadvantages of reinstating reconsideration in Michigan and other prototype states, and whether this would be in the best interest of disability benefit applicants.

Sincerely,

Sander M. Levin

Chairman

Jim McDermott

Chairman Subcommittee on Income Security and Family Support

Earl Pomeroy

Chairman Subcommittee on Social Security